

Application Ser. No. 10/644,704

Remarks

Claims 1, 42-68, and 70-81, 89, and 91-93 are pending. Please cancel claims 82-88 and 90. Applicants request that claims 78, 89, and 91 be amended. The allowance of claims 1, 42-68, and 78-82 is acknowledged with appreciation.

Claims 83-86 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cornelius in view of Pulling. This rejection of these claims is mooted by the cancellation of claims 83-86.

Claim 87 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Cornelius in view of Pulling, and further in view of Whitener. Claim 87 is canceled.

Claim 88 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Cornelius in view of Pulling, and further in view of Lamb. Claim 88 is canceled.

Claim 89 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmitz et al. in view of Pulling. The rejection is overcome by amendment. The subject matter of claim 90 is imported into claim 89 by amendment of claim 89, and claim 90 is canceled. Because claims 89 and 90 were previously examined (with claim 90 depending directly from claim 89), no additional search is required for the examination of amended claim 89. As amended, claim 89 recites that the "proximate portion of said stem comprises a threaded means for separably attaching said stem to said adjustment handle, said threaded means comprising barrel means for containing thread wear debris."

To support his final rejection of claim 89 as being unpatentable over Schmitz et al. in view of Pulling, the Examiner construed the "head" 24 of Schmitz's device to correspond to the "proximate portion, within said second chamber" recited in claim 89. "Any portion" of Schmitz's stem 22 was deemed to correspond to the "distal portion" of Applicants' stem, as claimed. (See Office Action of 02/16/06, page 7). However, to justify rejecting dependent claim 90, the Examiner then improperly (although possibly inadvertently) reversed his interpretation, and re-construed Schmitz's stem 22 to be analogous to the "proximate portion" of Applicant's stem. This cannot be. Either Schmitz's narrow stem 22 corresponds to Applicants'

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distal portion, or it corresponds to Applicants' "proximate portion." It cannot correspond first to one to reject claim independent claim 89, and then to the other to reject dependent claim 90.

Claim 89 has been amended to require that it is the "proximate portion" of Applicants' stem that has "threaded means" for attaching the stem to the adjustment handle, with the "threaded means" comprising "barrel means" that contains thread wear debris. Because the rejection of unamended claim 89 necessitated the characterizing of Schmitz's "head" 24 as the "proximate" portion, the "head" cannot meet the limitations now recited in claim 89 as amended. In short, Schmitz's "head" 24 cannot include the "threaded means" for attaching the stem to the adjustment handle (element 36 in Schmitz, et al.) as now recited by claim 89. (If Schmitz's stem portion 22 is deemed to be the "proximate portion," claim 89 is still allowable because his head portion 24 cannot satisfy the limitations on the "distal portion" recited in the claim.

Accordingly, claim 89 as amended is placed in condition for allowance. Reconsideration and allowance of claim 89 is respectfully solicited.

The patent to Sebenste does not supply the subject matter missing from claim 89 as amended, so dependent claims 91-93 are believed likewise to be allowable.

Claim 91 is amended solely to adjust dependency.

The Examiner objected to claims 78-82 under 37 CFR 1.75 as being substantially duplicative of claims 1, 42-44 and 46. The objection is overcome by amendment. Independent claim 78 has been amended to import the subject matter of dependent claim 82. Claim 82 is canceled. As amended, claim 78 is no longer substantially duplicative of claim 1 and, considering the dependencies of the respective dependent claims, the objection is overcome.

Re-examination and allowance of the claims, as amended, is respectfully solicited. If the Examiner has any suggestions regarding this application, he is invited to call the undersigned. NOTE the change in address and telephone number of Applicant's authorized attorney, set forth below.

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Respectfully submitted,

LAW OFFICE OF ROD D. BAKER

Date: April 14, 2006

A handwritten signature in black ink, appearing to read 'Rod D. Baker', with a long horizontal flourish extending to the right.

By:

Rod D. Baker, Reg. No. 35,434

Attorneys for Applicant
707 State Highway 333
Suite B
Tijeras, New Mexico 87059
Phone: (505) 286-9700